

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Case No. 2:21-cv-05017-PCK-SIL

----- X

NOE GONZALEZ,

Plaintiff,

-against-

THE CHEESECAKE FACTORY RESTAURANTS,
INC. d/b/a THE CHEESECAKE FACTORY,

Defendant.

----- X

Declaration of Javier Gomez

I, Javier Gomez, make this declaration under 28 U.S.C ¶ 1746

1. I have worked for Cheesecake Factory (“TCFI”) since 08/01/2008. From 03/23/11 to 12/30/2014 I worked as the General Manager (“GM”) of the TCFI restaurant location in Lake Grove, New York (“Lake Grove Location”). From 12/31/2014 to the present I’ve worked as the General Manager at the Westbury, New York TCFI restaurant location. As such, I make the below declaration based on personal, firsthand knowledge.

2. Each TCFI restaurant location has one GM, who is the highest-ranking employee in the restaurant. As GM of the Lake Grove location, I was the highest-ranking employee in the restaurant, and I made the final decision on all new hires and was in charge of onboarding all new hires.

3. During my time as the GM of the Lake Grove location, I conducted many of the initial interviews for new hires. Further, I conducted all of the final interviews and made the final decision on all new hires. During my time as the GM of the Lake Grove location, I was also in charge of onboarding all new hires and leading the orientation process for all new hires.

4. I conducted the final interview of Keith Calvagno and made the decision to hire

him to work as a server at the Lake Grove location. I also lead the onboarding and orientation of Mr. Calvagno.

5. As part of the onboarding process at the Lake Grove location, I discussed TCFI's expectations and policies and required all new hires to fill out all the forms and paperwork on the New Hire Paperwork checklist. A true and correct copy of the New Hire Paperwork checklist is attached to this declaration as Exhibit A. During onboarding, I ensured that all documents with an "X" in the "Servers" column of the New Hire Paperwork checklist were reviewed, filled out, and signed by all new servers.

6. In my role as GM at the Lake Grove location, I ensured Mr. Calvagno participated in this onboarding process and I ensured that Mr. Calvagno was aware of TCFI expectations and policies, including the TCFI ADR and arbitration policy. Additionally, during Mr. Calvagno's onboarding I ensured Mr. Calvagno filled out all the forms and paperwork on the New Hire Paperwork checklist as it relates to servers.

7. Per TCFI policy, in my role as GM of the Lake Grove location, I ensured that new servers signed the handbook receipt and confidentiality agreement at the end of the Employee Handbook. I ensured that Mr. Calvagno signed the Employee Handbook Acknowledgment Form. The Arbitration Acknowledgment is contained within the Employee Handbook Acknowledgment Form. During his onboarding, I ensured that Mr. Calvagno signed the Arbitration Acknowledgment.

8. Per TCFI policy, in my role as GM of the Lake Grove location, during onboarding I prepared and distributed 14 documents to each new hire, including the Employee Handbook. During his onboarding, I ensured that Mr. Calvagno received an Employee Handbook and that Mr. Calvagno signed the Arbitration Acknowledgment.

9. During my time as GM of the Lake Grove location, I ensured that all new hires, including Mr. Calvagno, signed the Employee Handbook Acknowledgment Form, including the Arbitration Acknowledgment.

10. I am not aware of any new hire who refused to sign the Employee Handbook Acknowledgment Form or the Arbitration Acknowledgment during my time as GM of the Lake Grove location.

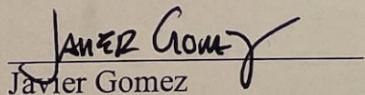
11. As GM of the Lake Grove location, I could not enter new hires into the TCFI system without the new hire signing all required paperwork. This required paperwork included the Employee Handbook Acknowledgment Form and the Arbitration Acknowledgment.

12. As GM of the Lake Grove location, I hired Mr. Calvagno, onboarded Mr. Calvagno, and ensured Mr. Calvagno was aware of and signed the Employee Handbook Acknowledgment Form and the Arbitration Acknowledgment.

13. Attached to this declaration is a true and correct copy of the following document:

A. New Hire Paperwork checklist I used to onboard servers, including Mr. Calvagno, during my time as GM of the Lake Grove location.

Signed under the pains and penalties of perjury on August 18, 2023.



Javier Gomez